ORVILLE H. BROWNING: CONSERVATIVE IN AMERICAN POLITICS

BY

MAURICE GLEN BAXTER

B.S., University of Illinois, 1941

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AN ABSTRACT OF A THESIS

SUBMITTED IN PARTIAL FULFILLMENT OF THE REQUIREMENTS
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ORVILLE H. BROWNING: CONSERVATIVE IN AMERICAN POLITICS

Like many other Illinois men of the middle nineteenth century, Orville Hickman Browning migrated from the border-state region. Born in Harrison County, Kentucky, in 1806, he was the son of a merchant-farmer whose antecedents went back to prerevolutionary Virginia. Young Browning attended Augusta College at Augusta, Kentucky, until financial difficulties at home forced him to leave his school work in order to earn a living. After reading law at Augusta and Cynthiana, he was admitted to the bar in 1831, the year that he decided to strike out for the country along the Mississippi at Quincy, Illinois.

In Quincy, a small, youthful settlement, Browning entered the rough-and-tumble practice of frontier law. With his gentile bearing, keen ability, and attractive talents, he soon gained a favorable public reputation. Many land-law cases came before the circuit courts which Browning, Archibald Williams, and others attended. People gathered in the towns on court days to hear these "tongue fellows" perform. A short, uninspiring enlistment in the militia during the Black Hawk War, cooperation in community educational and political projects, and assistance in emergencies such as the local cholera epidemic made him well-known among his fellow townsmen.

In 1836 Browning was elected to the state legislature as senator from Adams County. This four-year term was a period of significant activity in Illinois. Enthusiastic plans for state-financed internal improvements met grave difficulty when the depression of 1837 descended upon the West. Browning was unalterably opposed to granting every community an appropriation for a railroad, canal, or bridge. He believed that the system which embraced the fund commissioners' office and an extensive network of workers and

supervisors was a vicious one. It was inadvisable, he argued, because it was uneconomical. The citizens of Illinois could not afford this undertaking.

Another major issue before the legislators was that of the state banks. Governor Joseph Duncan, whose term expired in 1838, favored a lenient policy with respect to the Illinois State Bank and the Bank of Illinois at Shawneetown, but his successor, Thomas Carlin, was inclined to be much stricter with the banks. Browning saw eye-to-eye with Duncan and voted accordingly on various bills concerning finances which came up in the senate. Public economy, he thought, depended upon the strength of these institutions. When the Jacksonian antipathy for a national bank was applied by Illinois Democrats to restrict the operations of state banks, Browning and his Whig friends joined battle. His record of voting indicated that he wanted these banks to keep their doors open even though they might not always be able to redeem their notes with specie. For a time, at least, it was a question of party allegiance since the bulk of the banks' capital stock was held by Whigs.

In the winter of 1842-1843 Browning served in the Illinois house of representatives. A large part of this session was taken up with maneuvers by the Democratic majority to redistrict the state so as to obtain an advantage in the congressional elections of 1843. A bill to organize Marquette County from parts of Adams and Hancock occupied Browning's attention. He saw this move as a threat to defeat the Whigs and therefore spoke out vigorously against it. Despite the success of the Marquette bill, a new county was not organized in conformity with its provisions.

The next summer Browning was standing for Congress as the opponent of Stephen A. Douglas, already a leader in the Democratic ranks. The two lawyer-politicians entered the contest with full force during July and early August. They agreed to engage in a running debate that was held at many towns in the district. In true Whig fashion Browning

urged chartering a United States Bank, enacting a protective tariff, and projecting internal improvements on a national scale. The six-day schedule every week, the strain of travel, and the exhaustion after long hours of open-air speaking set a gruelling pace for the two candidates. The outcome was a victory for Douglas, who began a famous career in the national capital, while Browning turned away from politics to the practice of law.

It was 1850 before Browning again took active part in a political campaign. He was the Whig candidate for the House of Representatives, and his opponent was his perennial antagonist, William A. Richardson, the incumbent. Old slogans thinly covered the problem of Negro slavery which was dividing the country into angry sections. Speeches might be made about banks, tariffs, and the Mexican War, but an undercurrent of doubt could be detected when reference was made to a perpetual Union guaranteed by the compromises of that year. Browning took the orthodox Whig position of non-interference with slavery as a "domestic institution" and of disapproval of abolitionist agitation, calculated to cause discord between the North and South. In November the Democrats emerged more powerful in this district, for Richardson was returned to his seat in Congress.

Undaunted by defeat, Browning again accepted the nomination in 1852. Richardson and Browning made the usual swing around the circuit of villages. The tone of their addresses was much the same as it had been two years earlier with the exception that each of them had remarks to make about the presidential candidates, Winfield Scott and Franklin Pierce. The people listened to the speakers expound; then they went to the polls and elected Pierce and Richardson. There may have been some basis of truth in the Whig apology that the foreign vote, repelled from Scott by misquotations, had defeated their ticket.

The superficial calm was disturbed early in 1854 by the introduction of Douglas's bill for the organization of the

Kansas and Nebraska territories. Factionalism within the Democratic party broke out between the Douglas wing favoring popular sovereignty and the proslavery wing desiring slavery to be protected wherever the American flag flew. There were many Northern Democrats who left the party when a decision had to be made about the extension of slavery into the territories. This dissatisfied element joined with the anti-Nebraska Whigs in the congressional campaign that summer. Political affiliations were shifting so as to correspond to beliefs about this paramount question.

Browning had opposed abolitionist doctrine since his days in the Illinois legislature, but now he allied himself with those who answered a resounding "no" to the query, "Shall slavery be protected by Congress in the territories until the people can vote their preferences?" Moreover, Browning and his anti-Nebraska friends abhorred the repeal of the compromises of 1820 and 1850, which would have prohibited the introduction of slavery in these areas. They rejected the Douglas proposal since they were convinced that Congress had undeniable power to prohibit slaveholding in the territories.

The anti-Nebraska movement of 1854 developed into a new political coalition of old-line Whigs, independent Democrats, Know Nothings, and abolitionists. By early 1856 this organization was widely known as the Republican party whose rapid growth challenged Democratic supremacy. Browning was prominent among those who were mustering their forces around the central principle of opposition to slavery in the territories. In the Illinois state conventions of 1856, 1858, and 1860, he was a leader in the resolutions committees. By promoting the adoption of conservative resolutions Browning believed he was preventing "ultra" men from gaining the upper hand in Republican councils; and in this way the safe and sane policy of a firm but conciliatory stand would be assured. The resolutions which he wrote and had adopted at Bloomington in 1856 were models for

those of the Springfield and Decatur conventions in the later campaigns.

Browning was one of the delegates-at-large from Illinois to the National Republican Convention at Chicago in 1860. Together with David Davis, Norman Judd, and Gustave Koerner, he worked for the nomination of Abraham Lincoln as president. Personally, Browning favored Edward Bates as against Lincoln because, he thought, Bates was a border-state conservative who would attract support from all sections and would assure the South that the new party did not endanger their rights with respect to slavery as a domestic institution. In spite of Browning's concentrated effort to urge Bates upon his Illinois colleagues, Lincoln had been selected at Decatur as the favorite candidate. Accordingly, Browning aided in advancing Lincoln's name in the parleys behind the scenes at Chicago. He and Koerner attended a caucus of delegates from Indiana, Pennsylvania, and New Jersey on the second day of the convention. Here they spoke against Bates because of his native American inclinations and praised Lincoln for his solid conservatism. As Koerner expressed it: "He [Browning] wound up with a most beautiful and eloquent eulogy on Lincoln, which electrified the meeting." The third day Lincoln was nominated after some of the doubtful states swung over to his side. Nevertheless, even after he left Chicago, Browning remained convinced that it was a mistake not to have selected Bates.

In the interval between Lincoln's election in November, 1860 and his inauguration the following March, Browning developed his long standing friendship with the President Elect to the point of advising him about office appointments. The victorious Republicans seemed more interested in the rewards of patronage than worried by the peril posed by secession. Browning was no exception. He recommended many men whom he considered able for posts such as post-master at Kansas City or consul at Paris. He also had preferences about cabinet appointments. Bates should be

secretary of state in order to join all sections in support of the new administration. Joseph Holt should be retained as secretary of war for the same reason. Norman B. Judd, a Chicago Republican leader, should not be nominated secretary of interior because it would merely be rewarding him for political service.

When Lincoln left Springfield for Washington, Browning accompanied his party as far as Indianapolis. While they were in the Indiana capital, Lincoln gave his friend a copy of the inaugural address and asked him to offer his criticism of it. As a whole, Browning thought it was an admirable document. Only one passage ought to be changed, he said. Reference was made to reclaiming the public property which had been taken from the Federal government by the seceding states. It would be wiser, Browning pointed out, to omit this portion so as not to present an aggressive attitude at the beginning of the term. He did not doubt the government's right to reclaim property, but he did doubt the expediency in declaring that right. Lincoln made this change in accordance with Browning's advice; and although the note of conciliation failed to preserve peace, it was an effort in that direction.

On April 13, 1861, when the news of firing at Fort Sumter reached Quincy, Browning began full-scale participation in organizing Illinois for war. The South, he maintained, was not justified in taking recourse to secession. All differences could gradually be settled by negotiation. The Union was indissoluble, and any attempt to subvert it was treason. Whatever measures were necessary to suppress the rebellion should be used, he wrote the President, and if property (including slaves) had to be confiscated, that should be done. Browning addressed departing troops at Quincy. He went to Springfield and aided the governor and Douglas in arranging for sending off volunteer forces to the battle fronts. Popular enthusiasm for the flag was never greater, he believed, and justice must triumph over insurrection.

Though he had stood for Congress three times, Browning

had not held public office since 1843. Above all other offices, he wanted an appointment to the United States Supreme Court. There were some rumors that Lincoln would nominate him to the bench in these first months of the new administration. Browning's friends petitioned the President to make this choice, and finally Browning himself solicited the post in a confidential letter of April 9, 1861. Revealing his ambition in a most unguarded manner, he wrote: ". . . there is nothing in your power to do for me which would gratify me so much as this." Even his wife sent off an earnest plea that this request be granted, but in this instance Lincoln did not accommodate Browning.

Instead of becoming a Supreme Court justice, Browning was appointed in June by Governor Yates to fill the senatorial vacancy caused by the death of Douglas. In the special session of Congress which met on July 4, 1861, Browning followed the party line. His speeches in the Senate were strong spirited ones which led antislavery men to think that he was their ally. He voted for the confiscation bill of August 6, for the suspension of habeas corpus, and for the government contract measure, all of which were passed without much debate in this hurried session.

He further showed that he wanted strict treatment of secessionists by defending General Frémont's proclamations of martial law and military confiscation in Missouri in the fall. When Lincoln compelled Frémont to rescind or alter these declarations, Browning wrote the President urgent letters in behalf of Frémont, who, he believed, was effectively prosecuting the war in the West. He presented the theory that the executive as commander-in-chief of the Army or generals as his representatives could confiscate the property of rebels. There need not be any justification in the Constitution since the law of nations accorded such belligerent rights.

By the second session of the Thirty-Seventh Congress, which convened in December, 1861, Browning saw the serious-

ness of the radical Republican bid for party control. He was unwilling to support the second confiscation act in its course through Congress, for he held that confiscation of property as a punishment for treason was unconstitutional when it was done by legislative enactment. He had, it is true, favored Frémont's proclamation in Missouri and other rigorous action by the military, but to proscribe the possessions of a man with *in rem* proceedings was violating the American principle of the rule of law. Besides, the judicial procedure as outlined in this measure would amount to an act of attainder, clearly not permissible in a democratic government. Browning, therefore, clashed with Trumbull, Sumner, and Wade in the bitter confiscation debates, and by summer he was clearly a member of the conservative wing of the Republican party which was splitting with the Radicals. He had some allies, such as James R. Doolittle, Edgar Cowan, and Preston King, but their strength was not sufficient to halt the passage of the confiscation act on July 17, 1862.

For some time Browning had feared that Lincoln would become discouraged and accede to Radical pressure to issue a proclamation freeing the slaves. It was a shock, however, when he received word of the emancipation proclamation in September, 1862. Only two months previously Lincoln had assured him that they were in perfect agreement about this issue. But a few days later the President revealed to Gideon Welles that he was considering emancipation. When Browning learned the news, his pace of canvassing his district slackened percepitibly. At Concert Hall in Quincy, where he was scheduled to speak on November 3, Browning showed his displeasure at the turn of events by merely advising his listeners to vote for the best man without telling them which ticket was the better one. Upon his return to Washington in late November he admonished the President for issuing the proclamation because it had been responsible for election losses and had stirred up factionalism within the party.

Browning's position in the latter part of the war was

somewhat difficult. In February, 1863, he was succeeded in the Senate by his old rival, William A. Richardson, who was elected by the new Illinois Democratic legislature. For a time he was in Quincy practicing law, but after November, 1863, he was in Washington in connection with a law partnership that he had formed with Edgar Cowan, Thomas Ewing, and Britton Hill. Although he held no public office, he remained influential in politics because of his reputation at home. Moreover, his personal friendship with Lincoln and many prominent men in the capital placed him close to, if not inside, the inner councils of the government.

He had split irrevocably with the Radicals and thereby with a large portion of the Republican party. He opposed Radical measures, which he thought were unconstitutional and subversive to democratic institutions, yet he remained steadfastly loyal to the Union cause. He did not advocate a compromise peace, for he saw that this would never settle sectional differences. The only outcome must be a complete restoration of the Federal Union as it was before the insurrection. On the other hand, he distinguished between loyalty to the government and sympathy with the administration. Illustrating his point with reference to the drafts, he said that it was the citizen's duty to obey the draft law, but the administration could be criticized for passing the law in its existing form. By 1864 he tempered his viewpoint toward executive action in wartime. When Sumter was fired upon, he advised rigorous action to suppress treason in the South. Now he thought that the secessionist states ought to be offered some hope of clemency after they surrendered. Otherwise they would carry on a desperation war that could continue indefinitely.

The question then existed as to which presidential candidate Browning would support in 1864. Since 1861, he claimed, he had attempted to be nonpartisan, but in an election year it was nearly impossible for him to be neutral, for silence would be interpreted by administration men as defection and

would be regarded by the opposition party as a welcome help. Browning had never thought Lincoln was big enough for the presidency. Perhaps he was so envious of Lincoln's talents that he could not see his fitness for office. Moreover, he believed that the President had come under the evil control of the Radicals and therefore was taking the wrong path in affairs of state. Yet he could hardly bring himself to come out for McClellan since he disagreed with the Chicago platform upon which the general had been nominated. There was, then, a dilemma that seemed impossible to solve. His hesitancy was quite evident to people in Illinois. Both parties claimed that he was backing their ticket, but there is no direct evidence that he made a definite commitment. It is possible that he did not even vote, and perhaps he was satisfied that Lincoln was re-elected as the less undesirable of the two nominees.

During the reconstruction era Browning continued to contend against the Radicals. In the early days of the Johnson administration he found that he agreed with the Tennessee war Democrat on most issues. He was soon accepted in the circle of advisers who stood by Johnson in his running controversy with Congress. By spring, 1866, he was given a free hand in submitting names for patronage in Illinois, as well as in other states. It was hoped that by reshaping the list of appointees the nation could be rallied behind a conciliatory policy with respect to the conquered South.

In the summer Browning was busy in the National Union movement that emanated in the "arm-in-arm" convention of August 14-16, 1866. Together with Doolittle, Cowan, Henry J. Raymond, and A. W. Randall, he was a leader in this meeting which was called to muster pro-Johnson votes in the congressional elections that fall. Browning and his friends believed that the Southern states should be quickly restored to their former places in the Union and that they should not be denied representation in Congress as the Radical majority

had determined to do. The sense of the resolutions passed by the convention was that fraternity should replace hatred and that the Constitution should no longer be violated by the national legislature. Unfortunately, the good effect that such a movement might have had was cancelled by the stigma of disloyalty which was successfully attached to it by the Radicals. Moreover, President Johnson did not follow the advice of Browning, Doolittle, and others in his "swing around the circle" when he made a series of extemporaneous speeches that were immoderate in expressions of antagonism to his opponents. The Radicals, therefore, retained control of Congress as a result of election victories in November.

On September 1, 1866, Browning assumed the duties of secretary of interior in the Johnson cabinet. Unreservedly, he was with Johnson in the continuing struggle with an unfriendly congressional majority. Browning maintained that the South should be permitted to send its representatives to Congress and that they should not be subjected to military dictatorship as proposed in the reconstruction acts. The fourteenth amendment, he believed, unjustly interfered with a domestic problem of the ex-Confederate states. To make the acceptance of the fourteenth amendment a prerequisite for readmission to the Union was inconsistent with the principles upon which the war had been fought. The North had steadily held that secession was impossible because the Union was perpetual. Now the Radicals assumed that the Southern states had left the Union and must be reinstated.

As a cabinet member, Browning observed or participated in many important events. The conflict with Stanton and his consequent removal from office were frequently mentioned in Browning's diary. He thought that the secretary of war was deceitful and something of a spy within the executive department. When General Grant, who served as secretary of war *ad interim* in late 1867 and early 1868, relinquished his office as soon as Congress decided that Johnson had no right to remove Stanton, Browning wrote an account of what

had happened during a January cabinet meeting. He corroborated the President's story that Grant had agreed to hold the office until the constitutionality of the tenure of office act could be tested or else relinquish it in time for another person to be appointed in his place. Browning's loyalty to Johnson remained firm in the course of the impeachment trial which followed, although he was doubtful that the chief executive would be acquitted. From March to July, 1868, he was acting attorney general in the place of Henry Stanbery, who resigned to defend Johnson.

Browning was an old-school gentleman. He wore a ruffled shirt and Prince Albert coat, and at the first impression he seemed to be a dandy. His manners were courtly; his bearing, though pompous, was dignified and elegant. The appearance of the man was strikingly attractive. Here was a person in whom confidence could be placed since his integrity and sincerity were plainly evident. As an orator, Browning was extraordinarily effective despite his heavy style of delivery and the florid composition of his speeches. He could hold the close attention of his audience for three hours at a time while he discussed current political issues in a flowing, confident fashion. His early experience as a circuit lawyer was valuable, because he had learned to rely upon ingenuity in discourse or debate. These assets he used in a political career filled with disappointment and defeat, but he had enough courage to adhere to his convictions.

Note Concerning Sources

The most valuable source for a study of Browning is his diary which covers the years, 1850 to 1881. The twenty-five small volumes into which Browning put his daily observations are in the Illinois State Historical Library. Theodore C. Pease and J. G. Randall edited the diary in two volumes published by this library. At the same institution is a collection of Browning's personal papers containing copies of

some of his letters and many letters written to him. The greatest share of these items falls in the period, 1861-1870.

The Library of Congress, Washington, D. C. holds a rich store of materials pertaining to Browning. Reference may be made to the papers of the following men: Francis P. Blair, Jr., John D. Caton, Simon Cameron, James R. Doolittle, Thomas Ewing, Andrew Johnson, John McLean, William G. Moore, Lyman Trumbull, Gideon Welles, and, most important of all, the Robert Todd Lincoln collection of the papers of Abraham Lincoln (opened for public examination in July, 1947).

At the National Archives, Washington, D. C., the files and letter books of the secretary of interior reveal many significant facts about Browning as a cabinet member. Stray items on the Browning subject may be found at the Chicago Historical Society Library (Isaac N. Arnold), the Wisconsin State Historical Society Library (James R. Doolittle), the Pennsylvania Historical Society Library, the University of Chicago Library, and the Henry E. Huntington Library at San Marino, California.

Newspapers, such as the Quincy *Whig*, the Quincy *Herald*, the *Illinois State Journal*, and the *Illinois State Register*, may be consulted for *ante bellum* politics in which Browning had a part. State documents (journals of the Illinois senate and house of representatives and reports submitted to them) and Federal documents (*Congressional Globe* and the so-called "congressional set") are essential in a study of Browning's career as public office holder.